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SUBJECT: JUDGES NEED TRAINING TO IMPLEMENT LABOR LAWS

Classified By: Ambassador Gary A. Grappo for Reasons 1.4 b/d.

11. (SBU) Summary: During a recent Embassy-sponsored small group discussion on the role of the courts in implementing Oman's labor laws, business and labor leaders expressed a lack of confidence in the judicial process and judges' ability to settle labor disputes. The participants identified a possible future role for the courts in developing labor law jurisprudence and providing injunctive relief in labor cases. They stated, however, that judges need a significant amount of training before courts can assume these roles and looked to the U.S. to provide capacity-building assistance. End Summary.

12. (C) On May 27, Post assembled a small group of Omanis representing business, labor, lawyers and the judiciary to participate in a discussion on the role of Oman's courts in implementing labor laws and supporting the reforms of 2006 that legalized labor unions, collective bargaining and the right to strike. Business representatives were largely critical of the judiciary, displaying a lack of confidence in the ability of judges to apply the law correctly. Simon Karam, CEO of TRAVO, a mid-sized construction company, claimed that judges generally identify the worker as the aggrieved party regardless of the facts of the case. "We employers are terrified of the courts," he said. He further complained that judges appear to award damages in wrongful dismissal cases on the basis of compassion rather than according to a transparent formula that takes into account factors such as the worker's position in the company and length of time on the job. Karam's lack of faith in the courts affects his everyday business decisions, he said. He has an unwritten policy of never firing an Omani employee, for example, because he is sure that he would lose the inevitable court challenge.

13. (C) Another participant, Raymond Bejjani, General Manager of Catering and Supply Company, said that he and his colleagues have an immediate need for clarity on how Omani labor laws apply to emerging workplace issues. One such issue, he offered, concerns the amount and type of compensation to which a contract employee is entitled if he loses his job due to the cancellation of the contract. Bejjani explained that while Article 47 of the 2003 Labor Law states that "the successor (to a contract) shall be jointly liable with the previous employer for discharging all the contract obligations," most companies that take over existing contracts do not interpret this as a requirement to retain the existing workforce. Confusion over the law's intent and scope has resulted in several instances of labor unrest over the past year, he and other participants said. The courts need to get involved in settling these types of issues by setting legal precedents. At present, Bejjani and others lamented, judges often issue inconsistent and poorly-written decisions that result in more confusion than clarity.

14. (C) Business participants also complained about uncertainty in the relative authority of the courts and the Ministry of Manpower (MOM) in handling labor disputes and interpreting labor laws. Bejjani stated that there have been several instances in which he has gone to the MOM for assistance in settling a labor dispute only to have a judge refuse to recognize the Ministry's decision. His experiences are not unique, he said, and he called for greater communication between the MOM and the courts. If MOM decisions are not enforceable, he argued, then labor and management have few viable options to settle disputes before they reach the courts.

15. (C) Essam Nassor al Sheibany, a member of the General Federation of Oman's Laborers, Oman's national-level workers' representative body, expressed a similarly dim view of the courts. He commented that many workers believe the courts take too long to settle disputes, which he attributed both to the failings of the judicial system, in which judges often are forced to hear criminal, family status, commercial and labor cases in the same docket, as well as the incompetence of individual judges. A worker who has been dismissed unfairly from his job sometimes can wait as long as a year to receive compensation or be reinstated, Sheibany asserted, a delay most Omani and expatriate workers simply cannot afford. To address these issues, Sheibany said that the General Federation would like to see the creation of a specialized cadre of judges who hear only labor cases, an idea that the businessmen in the room quickly supported.

16. (C) Members of the legal profession defended the courts. Majid al-Toky, Managing Partner of the prominent law firm

MUSCAT 00000410 002 OF 002

Trowers & Hamlin's, acknowledged that many of Oman's judges lack experience and require "training, training, training." He stated, however, that CEOs of private companies must share the blame with judges for the inability of the courts to settle disputes and establish jurisprudence. Many executives believe that their companies are their private domains, Toky commented, and that they can fire workers without proper cause or documentation. "They then wonder why they never win their court case," he laughed, adding that companies have a responsibility to understand the law's requirements and develop internal human resource systems to meet them. Said Shahry, Managing Partner of the law firm SASLO and former member of the Majlis al-Shura, the elected lower house of Oman's proto-legislature, said that workers and labor unions have the same responsibility to understand the law and how to properly document their claims. Pointing to the member of the General Federation, Shahry said, "It will be part of your responsibility to raise awareness."

17. (SBU) Comment: Participants in the roundtable discussion suggested that they would welcome a larger judicial role in labor issues, including court injunctions mandating mediation of disputes, before the management-worker relationship is irrevocably damaged. The need for judicial training to fulfill this goal was a constant refrain, and participants looked to the U.S. to play a prominent role in building the capacity of Oman's judges. Based on the discussion, some areas for future Middle East Partnership Initiative (MEPI) training could include: writing judicial decisions that stand up to appellate review; interpretation and application of existing statutes with respect to emerging legal issues; and dispute resolution. The participants' comments about the lack of consistency and clarity in judicial decisions reinforced the potential value of a current MEPI-funded project to develop bench books on labor law as a reference for judges presiding over labor cases. End Comment.

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